

# **Arkansas Teacher Retirement System (ATRS)**

## **2009 Legislative Initiatives**

**March 25, 2009**

### **Overview**

The General Assembly continues work at a fast pace. One of the most followed bills of ATRS, SB 165, has one final legislative action, a House vote, to complete the legislative process. Several other bills of interest have either already become law or are awaiting Joint Retirement Committee action. Due to the number of retirement bills from the various public retirement systems, several retirement bills are awaiting actuarial study. Under the Joint Retirement Committee rules, any retirement bill that could have a cost must have an actuarial report from both the systems' actuary and the Joint Retirement Committee's actuary before a committee vote.

Several of the ATRS retirement bills are still in committee awaiting an actuarial report. Hopefully, actuarial reports will soon be available on ATRS bills such as SB129, SB209, SB210, SB224, SB228, and SB231. ATRS continues to work with the actuaries to share information to ensure the actuaries have any needed information to determine the cost of various bills. Some bills may require minor amendment to address cost issues as the actuaries complete their study of the bills. Hopefully, the bills that remain in the Joint Retirement Committee will begin to move soon.

ATRS appreciates the assistance of our members who have contacted members of the General Assembly on ATRS retirement bills. The Joint Retirement Committee and General Assembly have been very supportive and positive in addressing the retirement

needs of ATRS members. ATRS appreciates all the assistance provided by the General Assembly and ATRS members during this legislative session. The Joint Retirement Committee is now meeting twice weekly and the pace will only increase as the General Assembly works toward an April 10 adjournment.

### **Bill Status**

**SB 129** – (Sponsor Sen. Faris; Status: still in actuarial study, remains in the Joint Retirement Committee) **Provides a one-time ad hoc benefit increase to retirants, survivors, and beneficiaries of retirants in ATRS.** This bill would provide a one-time increase to retirants, survivors, and beneficiaries of retirants who have been receiving a retirement benefit for at least twelve (12) full months after the effective date of a monthly benefit. The increase is calculated based on the retirant's credited years of service, which is grouped within descending decades, calculated by subtracting the total years of credited service from the date of retirement. The years of credited service within the descending decades will be multiplied by a formula that will be set by rules and regulations promulgated by the ATRS Board of Trustees. This bill, if enacted, cannot be implemented until the markets and funding for ATRS improves enough to allow the increase to be financially reasonable under actuarial standards.

**SB 139** - (Sponsor Sen. S. Faris; Now is law as ACT 79 of 2009;) **Allows ATRS and other state retirement plans to hire fund managers immediately.** This power can only be used when approved by the Board when quick action is required and, thereafter,

the agreement must have post action review by the Office of Procurement and the Legislative Review Committee.

**SB 155** – (Sponsors: Senators B. Glover, S. Faris; Status: Now is law as ACT 465 of 2009) **Provides authority for the ATRS Board of Trustees (Board) or designee to waive member receivables upon System error.** The Board does not currently have authority to waive amounts owed to the System by a member. This bill gives the Board the flexibility to waive interest amounts owed to the system under limited circumstances when the error is caused by the system. This bill does not allow ATRS to waive required contribution amounts.

**SB 165** – (Sponsor: Sen. G. Jeffress; Status: Has passed the Senate and is on the House calendar for final legislative action) **Revises the return to work provisions in the teacher retirement laws, eliminates the earnings limitation, and provides a uniform employer contribution rate on all employees.**

Under this bill, separation from covered employment would transition from 30 days to a 180-day wait-period before returning to work for an ATRS covered employer. This does not mean the retiree does not get a retirement benefit payment for 180 days, it means the retiree is not considered retired if he or she returns to work in a position covered by ATRS within 180 days from the effective date of retirement. Exceptions apply if 1) the member is over 65, in which case, NO separation is required; 2) the member has over 38 years of credited service, now or anytime in the future) in which case a 30 day separation is required and 3) the member retires on or before July 1, 2009 in which case a 30 day separation is required.

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This bill eliminates and repeals the ATRS earnings limitation for all retirees. This means if an ATRS retiree who is under age 65 returns to work for a covered employer after the termination requirements are met, then there is no reduction on the ATRS retirement annuity due to an earnings limitation.

The bill also requires employer contributions to be paid on all ATRS retirees who return to work for covered employers, regardless of age and at the current employer contribution rate in effect at the time of employment. This bill would also require the employer-matching rate for all T-DROP participants to be the current employer rate in effect for all other members. The effect of the employer contribution changes is that a uniform employer contribution rate will apply to all employees.

**SB 170** - (Sponsor: Sen. G. Jeffress; Status: Now is law as ACT 467 of 2009)

**Authorizes ATRS Board or designee to waive employer penalties or interest.** This bill clarifies when employer reports and contributions are considered delinquent. This bill would authorize the ATRS Board or its designee to waive penalties and interest on contributions if the delinquency was not the result of employer nondisclosure, fraud, or misrepresentation; and payment of the penalties and interest would be unduly burdensome to the participating employer. For instance, this would allow ATRS to waive penalties for employers that could not submit reports due to the ice storm in January.

**SB 191 - ATRS technical corrections** (Sponsor: Sen. S. Faris; Status: Now is law as ACT 468 of 2009) The Teacher retirement benefit laws are in need of clarification and consistency in its terms. There are some obsolete provisions that should be repealed.

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This bill makes clarifying changes to language and other technical changes to the benefit laws. This bill will not have any impact on benefits or membership.

**SB 209** – (Sponsor: Sen. S. Faris; Status: still in actuarial study, remains in the Joint Retirement Committee) **Amends § 24-7-733 in the ATRS code regarding application of IRS section 415 code.** This bill will clarify ATRS' ability to conduct annual IRS § 415 benefit testing and treat COLA as automatic for purposes of determining IRS limits on benefit amounts. This bill will allow ATRS to let certain members keep more of the actual benefits earned that are currently reduced due to IRS rules.

**SB 210** – (Sponsor: Sen. S. Faris; Status: still in actuarial study, remains in the Joint Retirement Committee) **Amends § 24-7-717 in the ATRS code on rescission of retirement.** This bill limits the number of times an ATRS retiree can cancel retirement (rescind) and become an active member again of the System to one time per member. It also clarifies that a rescinded member is eligible to receive a recalculation of retirement benefits after accruing one additional year of service credit after the cancellation of retirement, instead of the current longer period of 3 years in the existing law.

**SB 224** – (Sponsor: Sen. G. Jeffress; Status: still in actuarial study, remains in the Joint Retirement Committee) **Amends § 24-7-720 in the ATRS code on lump sum death benefits to grandfather retirees who retired July 1, 2007 or earlier to require five years of actual service to receive the death benefit.** Legislation enacted during the 2007 Session required all retirees to have ten (10) actual years of service in order to become eligible for the lump sum death benefit as of July 1, 2007. Senate bill 224 will

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allow the retired members who had at least five (5) but less than ten (10) years of actual service who retired on July 1, 2007 or earlier to receive the lump sum death benefit. This would protect (grandfather) those retirees who had retired on or before the effective date of the 2007 legislation. The bill also clarifies that the lump sum death benefit was intended to be tax-free. In addition, it amends the provision allowing ATRS to purchase group life insurance only if consistent with the Board's fiduciary duty.

**SB 227** – (Sponsor Sen. J. Jeffress; Now is law as ACT 470 of 2009) – **Amends §24-7-1308 on T-DROP benefits.** This bill clarifies separation requirements when a member retires from T-DROP plan participation, and allows ATRS to recoup benefits, including interest, paid to a member under T-DROP who does not meet the separation of service requirements.

**SB 228** – (Sponsor: Sen. J. Jeffress; Status: still in actuarial study, remains in the Joint Retirement Committee) – **Amends § 24-7-710 on Survivor Benefits.** This bill eliminates the complexities in the current ATRS survivor benefit law related to annuities paid to a surviving spouse and children upon the death of an active member. It eliminates the remarriage prohibition on spouses, sets the dates annuities are payable and terminate, and clarifies that Option A benefits are payable to a member's spouse. The bill eliminates the dependent parent annuities and deletes the requirement that ATRS recalculate benefits when a dependent child is removed from the survivor payroll after reaching the age of majority.

**SB 229** – (Sponsor: Sen. J. Jeffress; Status: Now is law as ACT 425 of 2009) - **Amends § 24-7-720 in the ATRS code on lump sum death benefits to clarify tax**

**treatment.** This bill clarifies that the ATRS lump sum death benefit was intended to be treated for tax purposes as proceeds from a life insurance policy. This change lets the beneficiary of the deceased member keep more of the death benefit since income taxes will not be withheld.

**SB231** – (Sponsor: Sen. J. Jeffress; Status: still in actuarial study, remains in the Joint Retirement Committee) – **Amends § 24-7-702(15) - (27) Concerning definition of salary and calculation of final average salary.** This bill clarifies purchased contracts to include a contract won through litigation, consent agreement, judgment or other decree. This bill also defines the calculations in the final average salary to be limited to 120% of the next highest salary used in the calculation of final average salary or \$5,000, whichever is greater. This is the replacement provision to correct recurring problems with 110% Rule on limiting the amount that a member's salary can increase from year to year for the purposes of calculating final average salary.

**SB243** – (Senator Faris; Status: Passed the Senate and is on the House calendar for final legislative action) **A bill to allow the Arkansas Teacher Retirement System to adopt rules and regulations to remain in compliance with federal laws and regulations.** This bill will allow the ATRS Board to adopt rules and regulations to remain or to become in compliance with IRS rules. This may be needed as the IRS focuses on public pension plans in the next few years. This will allow BOARD action to prevent or correct a violation. Without this, ATRS would have no means to correct a

violation until the General Assembly meets. Hopefully ATRS will not need this safety net but staff thinks it is better to have it and not need it than to need it and not have it.

**SB 812**-(Senator Faris; Status: Has passed the Senate and is in the House State Agencies Committee awaiting Committee action) **CREATES a consistent review process for partial equity ownership agreements.** This bill establishes a procurement review process to resolve the issue of whether Limited Partnerships currently used by ATRS are subject to the current state procurement process by creating a special review process to allow needed investments in private equity and real estate partnerships while still having appropriate review.